



Dkt. 2271/71085

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of: Masatake OHMORI

Serial No.: 10/666,685

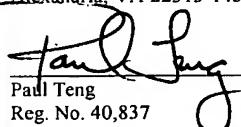
Group Art Unit: 2852

Date Filed: September 17, 2003

Examiner: Ryan Gleitz

For: COLOR-IMAGE FORMING DEVICE AND METHOD OF CONTROLLING THE SAME

I hereby certify that this correspondence is being deposited this date with the U.S. Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

  
Paul Teng  
Reg. No. 40,837

June 17, 2005

Date

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Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

**COMMUNICATION IN RESPONSE TO MAY 20, 2005 OFFICE ACTION**

This Communication is submitted in response to the May 20, 2005 Office Action issued by the U.S. Patent and Trademark Office in connection with the above-identified patent application.

The May 20, 2005 Office Action indicates that examination of the application will be restricted by the Patent Office under 35 U.S.C. §121 to one of the following allegedly distinct groups of claims:

- Group I.      Claims 1-8, 14-21 and 27-34;
- Group II.     Claims 9, 10, 22, 23, 35 and 36; and
- Group III.    Claims 11-13, 24-26 and 37-39.

Applicant hereby elects, with traverse, to prosecute Group I, claims 1-8, 14-21 and 27-34.

Applicant, however, respectfully requests reconsideration of the restriction requirement.

Under 35 U.S.C. §121, restriction may be required if two or more independent and distinct

inventions are claimed in one application. Under M.P.E.P. §803, the application should be examined on the merits, even though it includes claims to distinct inventions, if the search and examination of an application can be made without serious burden.

The inventions of Groups I-III are not independent. Under MPEP §802.01, "independent" means there is no disclosed relationship between the subjects disclosed. As acknowledged in the Office Action, Groups I-III are related as subcombinations disclosed as usable together in a single combination. Therefore, Applicant respectfully submits that the Groups are not independent and restriction is improper.

In addition, Applicant submits that it would not be a serious burden if restriction is not required, because a search for prior art for one Group will likely turn up relevant references for the other Group. Therefore, Applicant submits that search and examination of the Groups together would not be a serious burden.

Accordingly, in view of the preceding remarks, Applicant respectfully requests that the restriction requirement be withdrawn.

If a petition for an extension of time is required to make this response timely, this paper should be considered to be such a petition. The Office is hereby authorized to charge any fees that may be required in connection with this response and to credit any overpayment to our Deposit Account No. 03-3125.

If a telephone interview could advance the prosecution of this application, the Examiner is respectfully requested to call the undersigned attorney.

Respectfully submitted,

  
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